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ROBERT POOLEY

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT POOLEY,

Defendants.

Case No. 2:21-cr-00111-WBS

**MOTION *IN LIMINE* #3 (TO PROHIBIT
REFERENCING WITNESSES BY “VICTIM
NUMBER”)**

Date: April 29, 2024

Time: 9:00 A.M.

Judge: Hon. William B. Shubb

I. MOTION

Mr. Pooley moves *in limine* to use the real names of witnesses at trial instead of the “victim numbers” assigned by the government and used in its filings. The alleged victims in this case are all adults and there is no basis to refer to them as anything other than their names.

II. FACTUAL BACKGROUND

In the government’s recent filings, *see, e.g.*, Dkt. 50, the government refers to the alleged victims by number. The exhibits attached to the government’s filings have the real names of the victims redacted and replaced by labels such as “Victim 1.” The filings also refer to the person whose signature was allegedly “used” in aggravated identity theft only by his initials, Y.G. The defense brings this motion *in limine* to prohibit hiding the true names of the alleged victims at trial.

III. ARGUMENT

Referring to the alleged victims as “Victim 1” through “Victim 8” – as opposed to their actual names – is prejudicial and unnecessary. All alleged victims in this case are adults. There are no minor victims. Hiding their identities from the jury with initials or using a prejudicial shorthand like “Victim 1” should also be disallowed under Rule 403. The alleged victims here should be addressed by name. *See United States v. Powell*, 2023 WL 3060708, at *3 (D. Idaho Apr. 24, 2023) (“The Court would encourage the government to refer to the alleged victim by name to avoid the issue. But if the government chooses to use the term ‘victim’ in some situations, it should use the more accurate phrase ‘alleged victim.’”). Repeatedly using the label “Victim [#]” is prejudicial because it implies that “Victims 1 through 8” have already been determined to be victims. *Crawford v. City of Bakersfield*, 2016 WL 5870209, at *8 (E.D. Cal. Oct. 6, 2016) (finding “use of the terms shooter, killer, and victim” was “inflammatory terminology”); *Estate of Zahn v. City of Kent*, 2016 WL 541397 at *4 (W.D. Wash. Feb. 11, 2016) (finding that “[t]he labels ‘shooter’ and ‘victim’ are unnecessarily argumentative” and the plaintiffs could “easily refer” to the officer and decedent by name); *United States v. Sena*, 2021 WL 4129247, at *2 (D.N.M. Sept. 9, 2021) (finding repeated use of the word “victim” could cause prejudice, and noting that excluding the word did not prevent a party from describing injuries or presenting evidence in a criminal trial).

IV. CONCLUSION

Mr. Pooley respectfully requests that the Court direct that the alleged victims be referred to by name rather than “Victim 1” through “Victim 8” or by initials.

Date: April 1, 2024

Respectfully submitted,

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